

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, SEPTEMBER 14, 1995

Chairman Tull called the meeting to order at 1:30 p.m. at the Best Western Lakeway Inn, Bellingham, Washington.

MEMBERS PRESENT: ROBERT M. TULL, Chairman; EDWARD HEAVEY, and S. DON PHELPS; and Ex Officio Members SENATOR MARGARITA PRENTICE and REPRESENTATIVE RUTH FISHER.

OTHERS PRESENT: FRANK MILLER, Director; BEN BISHOP, Deputy Director; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; SUSAN BLANCHETT-LARSON, Field Operations; CARRIE TELLEFSON; Special Assistant, Public Affairs; MICHAEL AOKI-KRAMER, Rules and Policy Coordinator; and SUSAN GREEN, Executive Assistant.

Chairman Tull said the agenda would be changed around just a bit. Item 6, Whatcom County Crisis Services will be the first item. He said this will be the only change.

PROGRAM REVIEW WHATCOM COUNTY CRISIS SERVICES

Ms. Blanchett-Larson, Field Agent from the Olympia office, said the Commission has been performing program reviews on selected nonprofit organizations. Program reviews are performed to verify the existence of the licensee's programs and to ensure that gambling proceeds are being spent towards the organization's stated purpose. In June, special agents Christensen, Beyrouty, and Blanchett-Larson performed a program review on Whatcom County Crisis Services in Bellingham. In 1979, this organization was formed as a charitable and educational nonprofit organization. According to the organization's articles of incorporation, Whatcom County Crisis was established to make 24-hour counseling services available to any persons suffering from emotional or physical crisis. This includes victims of sexual assault, domestic violence, or other physical assaults. This organization has been licensed by the Commission since 1983. They currently hold Class "K" Bingo, Class "L" punchboard/pull tab, raffle, and amusement game licenses. The organization is overseen by a board of directors comprised of four officers and 11 members. Earlier this year, the organization voted to increase the voting membership to 20. The organization's executive director is directly accountable to the board of directors through its elected president. Executive-level employees report to the executive director. This organization offers four main program services. The first is a crisis

intervention service, which includes a 24-hour crisis hotline, and last year they instituted a teen hotline where teenagers can call in and get help for problems. The crisis intervention program answered 18,535 calls in 1994. Second is a domestic violence program offering support services for both victims and offenders caught up in the cycle of domestic violence. Third is a rape relief sexual assault program which provides support services for sexual assault victims. Last is a community relations program tasked with recruiting and screening volunteers and educating the public through presentations in the community.

Ms. Blanchett-Larson said as part of the review the organization's independent management control structure was evaluated for two reasons: To ensure the gambling proceeds are being used for the stated purpose and to determine if gambling activities are closely supervised. Staff recommended the licensee develop written policies which set the responsibilities of board members, officers, and employees. At the time staff made the recommendation, Whatcom County Crisis Services was willing to make the changes and had already begun to do so. Staff also recommended that board members obtain a clearer understanding of how the expenditure approval process works. Again, the organization was willing to make this change. The board of directors is committed to the continued success of the organization. They provide an excellent foundation for the organization to offer a wide range of services for the community. Staff recommends that Whatcom County Crisis Services be qualified as a charitable organization for the purposes of gambling in Washington. She said that Kathleen Casey, executive director, and other representatives from the organization are in attendance to answer questions and make a presentation.

Dale Brandland, Sheriff of Whatcom County and President of Whatcom County Crisis Services, introduced Bob Bell, Steve Felix, Jeff Fairchild, Phil Haggeman, Caytie Caniff, and Kathleen Casey as part of the WCCS staff. Sheriff Brandland complimented Sharon Tolton on the fine job she has done for the Commission and said he knew her when she did security at Fred Meyer next door. He said he has been on the board of Whatcom County Crisis Services for six years. He has enjoyed being with Whatcom County Crisis and said they provide a lot of good services. During his tenure, it has been a roller-coaster ride financially. He said he believes they are now starting to see some relief. **Sheriff Brandland** said he has five detectives, all of which are working at least part-time investigating sex crimes against children. He has another detective tracking sex offenders. He has a group of deputies who seem to be responding to a lot of domestic violence calls. The people they deal with are coming to Whatcom County Crisis Services for help. He said the services could not be provided today if it weren't for the organization's relationship with the Gambling Commission. The bingo operation they are allowed to conduct is a big asset to the community.

Chairman Tull said this organization, with its current management and other folks involved, has earned the respect of the staff and members of the Commission and the Commission itself.

Kathleen

Casey said that one way their organization is cutting expenses is by not traveling to Commission meetings, so she hasn't been to one in awhile. She said Whatcom County Crisis Services sees itself as having three client groups; one is the client, individual or family who comes seeking specific help with sexual assault, depression, etc. The second category of client is the community, community agencies, institutions, schools and professionals who ask Whatcom County Crisis Services to follow up with a specific case. The third group is the volunteers who provide most of the organization's direct services. The staff's job is to have the

expertise to deliver services and know what they are, and to stay focused on who the clients are. They have to ask if what they are doing is in the best interest of the volunteer, because without them, there's no one to handle those calls in the middle of the night. The staff is supported by the goodness of their volunteers and their desire to help someone else. When dealing with such ugly issues, it is being around such fine volunteers that helps keep them going. In this organization, the person responsible for recruiting these volunteers and getting them interested is Caytie Caniff.

Caytie Caniff gave an overview of the programs. She said there is a variety of programs; including one for kids. The teen line is staffed by teenage volunteers. The adult line volunteers are always there, seven days a week and handle about 1,500 calls a month. There are a lot of calls coming in, including potential suicides and people who are being evicted and don't have any place to stay. The volunteers listen and help brainstorm ideas to help the callers. The volunteers encourage the callers to decide on the best solution for themselves.

The domestic violence program is set up to help people who are affected by abuse in relationships; both victims of abuse and batterers. For offenders, they offer "ACT," Abuse Control Training, which teaches men alternatives to power, control or violence and abuse in relationships. It is an intensive one-year program. For victims of domestic violence, they offer one-on-one support where someone listens and talks with the person about their situation. They help people problem-solve as well as educate them on what abuse is.

Part of the domestic violence program includes a support group called New Beginnings. Volunteers watch children while their moms attend the support group meetings. The participants can just drop in or they can come to every meeting. Advocates support the clients in whatever course of action they choose to take, and they would never say a client's decision is wrong.

The sexual assault program is another 24-hour a day program which helps victims of sexual assault as well as what they call "secondary victims," such as a mother, father, sister, etc. They help people at the emergency room of the hospital, in court or at the police station. Volunteers (advocates) will go to any medical or legal service and help the victim while they are at that service. Advocates support the client where they are at that time and are there to inform, not dictate. Volunteers listen. The sexual assault team also offers support groups for victims as well as the secondary victims. They also have community education and prevention, which is another really important component of the Crisis Services.

Ms. Caniff said that all of their programs are involved in the community education effort. Speakers are regularly used in classrooms, different kinds of clubs and organizations, and as trainers for different kinds of staff in different agencies. She said the most important aspect of her job is volunteer recruitment. There are many types of volunteers, some are students, some are retired, people who work, and people who have children. Others come because they need experience to list on their resume. All of them want to make a difference in the community and think this organization is the place to do that. The idea of being on the crisis line can be scary to people at first, but the training they get helps alleviate those fears. Training includes 30 to 40 hours of classroom training including lectures and group discussions, and the process seems to work pretty well.

Chairman Tull said he'd like to make a comment for benefit of the new commissioners. He said the program that brings this type of organization before the Commission was designed to do a number of things. One reason was so that the Commission could learn about organizations and that has actually proven to have benefits far beyond what the Commission originally contemplated. It has been a very worthwhile experience to observe some of these organizations.

Another thing the Commission wanted to do was make sure concerns of the Commission were communicated more directly to board members, officers, and directors. In the case of Whatcom County Crisis Services, it is a local organization with a lot of involvement and support. He said there have been other boards of fine organizations that have fallen asleep on the job and have been responsible for huge financial losses suffered by those organizations.

Commissioner Phelps said he is impressed by the number of calls Whatcom County Crisis Services processes. Because he is new to the Commission, he asked if Whatcom County Crisis Services could put that into context for him and tell him how many calls they received in 1993 compared to 1994.

Ms. Casey said there was a slight increase in 1994 over 1993 but it is hard to compare too far back because in prior years calls were handled by different people. They used to answer for Child Protection Services and each one of those calls generated three or four more calls. They also used to answer for Women Care Shelter, which is a shelter for battered women, and they were able to get enough funding to answer their own 24-hour line. She said she didn't think the increase was very much. Part of the reason is because there are now other resources available in Whatcom County.

Sheriff Brandland said he didn't think Crisis Services was unique from other social services in the area. He said that if this was a retail business, it would really be booming, but some of their financial difficulty has been caused by the casinos opening in the area and the economy in general has had an impact. **Ms. Casey** said that the calls are not the only way clients come to them.

Director Miller said the agency looks at organizations to be sure they are doing what they report they are doing. This gives an accurate picture of what organizations are really doing.

Chairman Tull said the official vote on this group will be deferred to later this afternoon to allow Commissioner Heavey an opportunity to vote. He said when the review program was started, the Commission decided to require organizations to bring as many board members as possible, it was done with the knowledge that everyone has gained as volunteers. It takes times, costs money, is inconvenient, and the Commission appreciates that. He said if any of the organization's members have comments, they can make them now or feel free to contact any of the Commission members.

Ms. Casey said the Gambling Commission staff is always responsive and good to work with.

Chairman Tull said that there is another change to the agenda; the Jamestown S'Klallam Phase II review will be heard next. He called for a recess to fix technical problems.

Chairman Tull said Senator Prentice and Representative Ruth Fisher from the Legislature are here, as well as commissioners Phelps and Heavey.

PHASE II REVIEW:

**JAMESTOWN S'KLALLAM TRIBE
7 CEDARS CASINO**

Ms. Tolton said the Jamestown S'Klallam Class III facility is known as the 7 Cedars Casino. Under the terms of the tribal/state compact, this review is conducted by the Tribal Gaming Unit staff within the Special Operations Division and in cooperation with the Tribal Gaming Agency staff. This review determines suitability with criteria to move forward from Phase I scope of gaming levels to Phase II levels within Section III of the tribal/state compact. The change in scope would move the Tribe from 31 tables plus one nonprofit table to 50 tables plus two nonprofit tables, from \$250 wagering limits to \$500 wagering limits, and from 112 hours averaged per week to 140 hours averaged per week. The review encompassed a comprehensive investigation designed to determine compliance with compact provisions pertaining to gaming operations, record keeping, and internal controls.

The 7 Cedars Casino is located in the community of Blyn, is five miles east of Sequim on Highway 101 in Clallam County. The tribal population is approximately 250 and the facility employs approximately 50 Native Americans; about 25 of which are Jamestown S'Klallam tribal members. Total employment within the facility is approximately 350. This casino opened to the public under the terms of the compact on February 3, 1995, and has been operating now for approximately seven and a half months. The financier and management company is Olympia Gaming Corporation, a wholly owned subsidiary of Elsinore Corporation. Ron Allen is the chairman of the Tribe and a strong administrator who is actively involved overseeing in the casino. He supports strong regulation and control of gambling activities and has embraced the government-to-government relationship envisioned by this compact. The investigative report has been provided to the Commission.

Ms. Tolton said there have been no sanctions imposed by the federal district court or the National Indian Gaming Commission. There have been no adverse impacts on the public welfare and safety in the surrounding communities in the nature of criminal activities, and the Tribe enjoys, along with the Gambling Commission, a good relationship with local law enforcement in that area. There has been one violation of the compact in that they failed to license vendors of the Class III gaming equipment supplies, and/or services, and presently the Tribal Gaming Agency is in the process of licensing those Class III vendors. There were two violations of the tribal/state compact appendix A; one was a repeat violation in the area of table inventory slips (page 6 of the case report) and the other violation was substantial in and of itself, but corrective measures have been taken on this issue relative to card and dice inventory controls. The obvious concerns there are with lax inventory controls, as there is a potential for cards and dice to be removed from the premises and frauds perpetrated on the Tribe at a later date.

A community contribution committee meeting has been scheduled for later this month, but in advance, the Tribe has distributed \$40,000 to the Clallam County Sheriff's Office. Revenues have not met the Tribe's initial expectations and a number of employees were laid off during the summer months of July and August. The Tribe has distributed \$24,672 to charitable purposes,

which was 1/32 of their net win. Those funds were distributed through the period ending July 26th. The case report indicates where some of the funds were distributed, including to the March of Dimes, the Sequim Chamber of Commerce, Sequim Boys and Girls Club, Junior Babe Ruth Tournament, Healthy Families of Clallam County, and Headstart. The Tribe supports a problem gambling awareness program which includes contributions to the Washington State Council on Problem Gambling. **Ms. Tolton** said Barbara Reed, an employee of the Tribe, also serves on the board of directors of the Washington State Council on Problem Gambling as does Kathleen Casey who was a previous presenter. The relationship between the tribal gaming agency and the casino operations is still in the development process. The tribal gaming agency and operations management has responded swiftly to staff's concerns identified in this review. Concerns about revenue have sometimes taken priority over compact compliance and the ability of the tribal gaming agency to assert an effective regulatory role has sometimes been hampered.

Ms. Tolton said the tribal gambling agency has an executive director, Jerry Conant, who is here today. He has seven agents and one administrative assistant. Most of the staff came from regulatory, law enforcement, or accounting backgrounds and all have participated in the two-day training Mike Tindall and his staff have put together and have been offering on a regular basis. The organization continues to provide on-the-job training and outside training for staff. The tribal gaming agency is overseen by a commission of three and they meet once per month and perform an active oversight function.

Ms. Tolton said Sheriff Hawe of Clallam County and Chief Barns from the city of Sequim have been notified of staff's review for Phase II consideration. The Sheriff in particular has been an active participant with the Tribe in anticipating and working cooperatively to mitigate impacts and address public safety concerns. The calls for service to the area have been minimal; the Sheriff reports about 58 calls to the facility since it opened, most of them due to disorderly conduct, and State Patrol also indicates some calls for service regarding accidents on the highway in that area and DWI's, but nothing over and above what they normally would see. The State Patrol does have close communication with the Tribe regarding those issues. All those areas will presumably be addressed by the community contribution committee as far as impacts.

Ms. Tolton said that at this time the Director supports her recommendation to the Commission to approve implementation of Phase II scope of the tribal/state compact identified in this Section III and to be effective upon notification by the tribal gaming agency in writing of the date they propose to begin Phase II levels. She introduced those present: Sandra Ehrhorn, tribal council member; Jerry Conant, Tribal Gaming Agency Executive Director; John Robben, Economic Development Director; and Fred Napoli, 7 Cedars Casino General Manager. Jerry Allen is the Assistant General Manager and also the brother of Chairman Allen. She said Mike Tindall and Jim Goble of the Gambling Commission staff are also here.

Chairman Tull said he is aware of a continuing problem with the relationship between the tribal gaming agency and the management company. He asked Ms. Tolton to outline the process for clearing up these problems. **Ms. Tolton** said it has been a problem and she thinks that as a result of the six-month review, the problem was somewhat highlighted. Clearly from the operations side, there is a focus on revenue and not a real strong focus on areas of the compact that were of concern to the state as well as the tribal gaming agency. She believes it has taken some time to establish lines of communication where operations does consult with and work with the tribal gaming agency regarding issues such as promotional types of contests

that might divert from compact requirements. It is a difficult relationship at times but, as a result of this review, staff has been able to point out some areas of concern to both the tribal gaming agency and operations. She also wanted to point out that staff has advised the Tribe that if problems continue in these areas that have been highlighted, then staff would go toward compact charges. **Mr. Napoli** said the management company understands the importance of better relationships with the Tribe. The past six months have been a learning period for everyone.

Senator Prentice said every tribe is going to have a learning curve but it seemed to her that this Tribe had to lay off some employees early. She asked if those people had been rehired or was that a balancing out. **Mr. Napoli** said the number of lay-offs were around 25 and no, they have not hired any employees back yet. The level of business they anticipated in the summer season did not happen. They are continuously looking at decisions like that, because they are in a rural area. They are taking measures to ensure that 7 Cedars does succeed. **Senator Prentice** said the future is certainly going to bring the impact from one tribal gaming site on another. She is also concerned with the focus on revenue. **Chairman Tull** said it goes without saying that staff has this concern as well. Also, the Commission will not be idle if they see a trend where economic pressures on the operations are addressed by operators or tribes by reducing their regulatory side or backing off on regulations--that simply will not occur. **Senator Prentice** said the Commission can also anticipate criticism from tribes in general as the future evolves. As the operations impact each other, additional pressure will be placed on the Gambling Commission to change its focus, but the Commission expects tough regulators on all levels. The Commission will weigh every issue carefully.

Director Miller said the Tribe has made a real commitment to the regulatory side and that is based on the number of agents they have hired, the law enforcement experience they brought in, and the experienced regulators they brought in. The Gambling Commission's agents spent 480 hours on this review. The real issue is the developmental aspect of the relationship. He said he's quite confident that the Tribe has come a long way. **Chairman Tull** said it clearly is a very good report about a successful tribal gaming agency.

Sandra Ehrhorn said she is the vice chair of the Jamestown S'Klallam tribal council. She thanked the Commission for sending the information to help with their continuing operation. **Senator Prentice** asked what the Tribe's former source of revenue was prior to the casino. **Ms. Ehrhorn** said tribal members just worked in the area. **Senator Prentice** asked if this is the only source of revenue from within the reservation. **Ms. Ehrhorn** said yes.

Commissioner Phelps asked what the impact will be of Phase II on the future success. **John Robben** said he is the director for economic development for the Tribe and he does a substantial amount of planning for the Tribe that pertains to future plans and projections. He said that improved marketing should allow the Tribe to take advantage of the increase in tables and dollar amounts this spring and summer. **Commissioner Phelps** asked if this would have any impact on the personnel role. **Mr. Robben** said probably not in the short term. He doesn't foresee a major expansion mode based on Phase II levels. He thinks they will see some increase in gross revenues and probably in net revenues, primarily from the increase in the level of play by some of the players. The Tribe recently approved continued funding for the Tribal Gaming Commission at the same historic levels for the remainder of the fiscal year at the same time they were considering cutbacks in the Tribe's operational staff on the casino side and

possible cutbacks on the governmental and administrative side. He said the commitment is there.

Chairman Tull said staff should let the Commission know if the relationship issues are not resolved. The Commission has the same level of concern as the Tribe to get these problems resolved. He asked if there were any questions; no one had any. He said that at first when he looked over these materials he was hesitant to approve the Phase II scope, but he is now satisfied.

Senator Prentice asked when the Tribe would be reviewed again. **Director Miller** said they are being continually reviewed and monitored. **Chairman Tull** said the Commission will be monitoring their progress. If the Commission has a major concern about the contents of the report or anything else, then this would be a conditional review.

Senator Prentice said that is why she asked where Ron Allen was, because she remembered his particular attitude in being supportive. Just because staff has found problems doesn't mean there are any more than any other tribe. **Director Miller** said staff is getting better at these reviews, too. This has been the most thorough review so far.

Senator Prentice moved for approval of the implementation of Phase II for the Jamestown S'Klallam Tribe. **Commissioner Phelps** seconded the motion; motion carried.

QUALIFICATION REVIEWS

SISTER REBECCA BERGOFF FOUNDATION -- ANNUAL QUALIFICATION REVIEW

Ms. Fischer said the Sister Rebecca Bergoff Foundation is located in the Yakima Valley. The organization's qualification review materials did not meet the standards in WAC 230-08-122 so staff was unable to prepare a report for the Commission. However, staff was able to ascertain that the organization does qualify for licensure. Staff did not prepare a formal report for the Commission because the organization's financial statements didn't meet the standards so staff couldn't put them in the report format.

Chairman Tull said he cannot support taking action without financial information. **Ms. Cass-Healy** said the purpose of the memo is purely informational and no action is requested on this organization.

BIG BROTHERS/SISTERS OF WHATCOM COUNTY, Bellingham

Ms. Fischer said this organization is located in Bellingham and has a Class "J" bingo license and also licenses for punchboards/pull tabs, and amusement games. The mission of the Big Brothers/Sisters is to build and support relationships between adult role models and children from single parent homes. They were first formed in 1976 and have 17 voting members. Management and program staff match volunteer big brothers and sisters with children who then spend four hours per week building friendships. During the last fiscal year, the organization achieved the most active matches (148) since 1985. The organization's contributions totaled \$9,556; net gambling revenues totaled \$307,408. The organization spent \$406,862 in support of their stated purpose including \$101,295 to cover administrative costs, which was 24.9 percent of total expenses. Staff recommends approval for qualification as a charitable

organization for the purposes of conducting gambling in Washington.

Director Miller said once again, staff can point out the difference between 1993 and 1994 so the market is better. There has been a tremendous impact in this geographic area. **Chairman Tull** said he has noticed, in looking at the quarterly summary that was issued, that in the pull tab area all of the normal top ten from Whatcom County are not there.

BOYS/GIRLS CLUB OF WHATCOM COUNTY, Bellingham

Ms. Fischer said they have a Class "J" bingo license, and also hold a license for raffles. The organization was formed in 1968 to provide behavioral guidance and to promote the health, social, educational, vocational, and character development of youth. They have 15 voting members. They operate multi-purpose recreational facilities in Bellingham and Blaine. The Blaine operation has completed its first year in its new facility and participation has reached 60 youth daily. The organization also offers sports activities for its members ages 5 to 18, a girls pre-teen torch club, a weight and work-out room, and anti-drug and alcohol programs. During the year approximately 4,600 clients were served. Bingo net income was \$456,619 and the organization spent \$400,600 in support of their stated purposes, including \$125,257 to cover administrative costs, which is 31.3 percent of total expenses. Staff recommends approval for qualification as a charitable organization for the purposes of conducting gambling in Washington.

Chairman Tull asked why this game has survived while others in the area have not; **Ms. Winslow** said the success could be due to the innovative ideas of the bingo manager. The bingo manager runs several different types of games within his bingo format. He has increased activity at that bingo hall as opposed to some of the other games. Mark Taylor said he agrees, and that they also chose to not remodel their building, which would have caused them to lose business during construction.

F.O.E. #3029, Blaine

Ms. Fischer said this is a fraternal organization with a Class "H" bingo license and licenses for punchboards/pull tabs and raffles. Formed in 1950, the Aerie have 782 voting members. The organization moved into their new club facility on June 13, 1994. Club activities include monthly dinners for members and their families, the sponsoring of sports leagues and hosting Easter and Christmas parties for children. Contributions totaled \$8,835 and the Aerie awarded \$1,000 in scholarships. Net gambling revenues were \$203,784 and bingo net income was \$119,222. The organization spent \$24,943 to cover administrative costs, which was 27 percent of total expenses. Staff recommends approval as a fraternal organization for the purposes of conducting gambling in Washington. **Ms. Fischer** said they have hired a new bingo manager recently and they hope he will be innovative.

SILVER BUCKLE RODEO CLUB, Vancouver

Ms. Fischer said Silver Buckle Radio Club is located in Vancouver and has a Class "I" bingo license and also holds licenses for punchboards/pull tabs and amusement games. The organization was formed in 1978 to encourage participation and support youth in equestrian

events and studies. The organization membership encourages youth ages 6 to 24 to develop equestrian interests through participation in the young champion sponsorship program. They also offer a rodeo skills program with year-round classes for calf-roping, barrel racing, pole bending, goat tying, and steer wrestling. On August 31 of this year, the organization opened their new bingo facility. During the last year, contributions totaled \$13,741, scholarships were \$26,458 and sponsorships amounted to \$16,969. Net gambling revenues totaled \$300,750, of which bingo net income was 91.1 percent. The organization spent \$162,186 in support of their stated purposes. Staff recommends approval for qualification as an athletic organization for the purposes of conducting gambling in Washington.

Chairman Tull said this organization was one that played a significant role in the Commission's increased involvement with the organizational integrity of licensees. It had some substantial deficiencies in terms of the independence of its board from the employee group and a number of other issues were involved with very firm steps taken by the staff and by the Commission. To their credit, they went to the effort of getting new people and restructuring in a corporate sense, and it appears they have completed that transition. **Director Miller** said this group, through pressure, removed some of the prior board members and now it is a true nonprofit organization and they are doing quite well. **Commissioner Phelps** asked why the administrative costs for this organization are a percentage higher. **Michelle Bernhardt**, executive director, said the financial summary states they reduced their administrative expenses by \$39,000, but it still shows that the compliance rate is 42 percent. Part of the reason is because when she gave the accountant the book work to prepare the financial statement, he didn't listen to what she explained the programs entailed and used a schedule of allocations where he put 25 percent of the program expenses as program expense and 75 percent of expenses as administrative. So in actuality, it is not a true financial statement. **Commissioner Phelps** asked what Ms. Bernhardt estimated the expenses to be. **Ms. Bernhardt** said 24 percent. **Commissioner Phelps** asked how that compares to last year. **Ms. Bernhardt** said last year it was 35 percent. Mr. Thompson, their CPA, has agreed to redo the financial statement at no cost and she will resubmit it to the Commission. **Commissioner Phelps** said he had one more question. He asked about retail sales. **Ms. Bernhardt** said they tried a different allocation method and it increased the amount of rent and utilities that were allocated to retail sales which made it look like it was a big money loser. She doesn't feel that their retail sales are a loss as those expenses would be incurred one way or another. She also changed the way they will be showing that in the future.

Chairman Tull suggested that the staff brief Commissioner Phelps on the history of the snack bar issue and how it has been evolving. The Commission now allows more organizations to handle that independently but there is a lot of history that can help him understand the evolution.

Commissioner Heavey moved for certification of the above licensees. **Commissioner Phelps** seconded the motion; motion carried with three aye votes.

WHATCOM COUNTY CRISIS SERVICES, vote

Chairman Tull said Whatcom County Crisis Services made a presentation and had a written report as well, and now that Commissioner Heavey is present, he would bring that back before the Commission. **Commissioner Phelps** moved for recertification. **Commissioner Heavey**

seconded the motion; motion carried with three aye votes.

STAFF REPORTS

INDIAN GAMING REGULATORY ACT AMENDMENTS (I.G.R.A.A.)

Michael Aoki-Kramer said part of his job as Rules and Policy Coordinator for the Public Affairs Section is to help staff understand the proposed changes to the 1988 Indian Gaming Regulatory Act. He said the Commissioners have been provided with a summary of two proposed amendments to the 1988 Indian Gaming Regulatory Act. There are two major bills: one on the Senate side sponsored by Senator McCain, called the Indian Gaming Regulatory Act Amendments of 1995. Senator McCain's bill would create a new commission to replace the National Indian Gaming Commission and would have more authority than what the present National Indian Gaming Commission has. Regarding the legislative findings of the bill, **Mr. Aoki-Kramer** said the National Governors Association's position on some of these, especially the new ones, are that these findings take into consideration some tribal concerns and issues about tribal sovereignty and how the federal government is going to deal with these issues, but it doesn't take into account states' concerns. The purposes are pretty much the same. The bill adds a lot of definitions relative to the creation of the federal Indian Gaming Regulatory Commission, but it does not provide clarification on definitions that have been a problem in the past, such as what are Indian lands and what activities are negotiable as class II and class III gaming. Senator McCain's amendment is meant to entirely restructure the Indian Gaming Regulatory Act, but if the bill fails to take the extra step to fix some things that are currently being litigated before the Supreme Court.

As mentioned in section 4 of the report, the bill establishes a new regulatory commission which would have licensing authority, whereas now the present National Indian Gaming Commission merely approves class II management companies and helps tribes oversee class II operations. The new commission would have the authority to grant, deny, or condition licenses, inspect class III premises, and also adopt a minimum federal regulations. The new minimum federal regulations would apply to background investigations, licensing, operation of class II and class III facilities, surveillance security, cash counting controls, controls over gambling, and controls over auditing. These federal minimums could potentially affect what the Washington State Gambling Commission currently does at a time when we are at the forefront of the Nation right now in how the Commission handles these issues. He said the reason for the federal minimums is that not many states are addressing these regulatory issues and the present National Indian Gaming Commission is not set up to deal with them.

Mr. Aoki-Kramer said in the regulatory framework, section 6 of the report, tribes retain their right to regulate class II so long as it meets or exceeds the federal minimums that would be adopted. Class III would still be conducted pursuant to a tribal/state compact and again it must meet or exceed federal minimums. If the tribe or state fails to meet the federal minimums for class II or class III, the new federal commission would have the authority to come in and take over the operation. That authority is substantially different than the present Commission's authority.

Page three of the report talks about the advisory committee. Within four months of the act being enacted, the feds have to convene an advisory group which then has another six months to come up with a set of federal minimums. **Chairman Tull** asked if staff could send one of the

state's compacts. **Mr. Aoki-Kramer** said that would be a good idea. **Ms. Tolton** shared with staff about a recent conference she attended regarding the level of regulation knowledge, or the lack thereof, in other states regarding Indian gaming.

Every aspect of Section 8 of the report, provides new authority for the new federal commission. Every aspect of class II and class III operations must be licensed either by the tribe and the state or in some cases, there will be a third level with the federal licensing. However, there is still some confusion as to who must license what. **Director Miller** said licensing could be duplicative of what is being done now in this state and could be somewhat burdensome. **Mr. Aoki-Kramer** noted the bill would give the new commission the authority to contract out these licensing functions and he felt Washington would want to get involved with that.

Regarding the requirements for conducting class I and class II games, class I still remains under the exclusive jurisdiction of the tribe; however, the new commission has the authority to go in and make sure everything is put together right and it also talked about meeting adequate environment and public health and safety issues as well. Class II is still under the jurisdiction of the tribe. It adopts much of the same language as is already in the 1988 IGRA regarding class I and class II.

Class III, number 10 of the report, the tribe is still required to ask to negotiate a compact, but they must specifically set forth the games they seek to offer. This is an area where some clarification could have helped out. Class III must still be conducted pursuant to a compact and the new commission's role would be to monitor implementation of those compacts. Right now, the National Indian Gaming Commission doesn't really have any oversight authority for Class III.

Gaming prescribed on lands acquired in trust, section 11. Now this is a major departure from what is currently authorized. Currently, lands acquired in trust can be petitioned to the Secretary of the Interior but the Governor has veto power. The bill takes out the Governor's veto power and reduces the governor's role to advisory, thereby eviscerating an important local role in citing gaming facilities. The new federal commission would review all contracts and would have the authority to require new provisions be included in contracts if the contracts don't presently meet the federal minimums.

Currently, the National Indian Gaming Commission has authority to issue civil penalties up to \$25,000 for violations of IGRA. This bill would change penalties up to \$50,000 a day for each violation. Ordering temporary suspensions for substantial violations stays the same.

Section 15 is new--the bill would make the Internal Revenue Code apply with regard to reporting and withholding taxes on winnings in Indian casinos.

The appropriation is important because it appropriates \$5 million for the new commission's operation but it also authorizes the new commission to raise fees up to a limit of \$25 million. Right now, the limit on fee funds is \$1.5 million with a \$2 million appropriation. **Director Miller** said they need to increase their budget to have a meaningful role. **Chairman Tull** asked if this was enough to give them a meaningful role. **Director Miller** said yes, it would give them enough money to do quite a bit. One of the main things in this act that Mr. Miller expressed in a memo he wrote last month, was preserving the rights of states that chose to play a role to

maintain that. Staff doesn't want to see that minimized but staff has worked very hard to have a role for our state. Number two was the trust land issue and number three was let's put some remedies in for those states to get injunctive relief against tribes that operate illegally. It is a very simple remedy. **Chairman Tull** asked for status of this bill. **Mr. Aoki-Kramer** said this bill has passed out of committee and is on the Senate floor. It hasn't been scheduled for a hearing yet; they are in appropriations negotiations so November/December should see some action on it.

Chairman Tull asked what do people from the different parts of this arena think is the likelihood that McCain's bill is going to make it. **Mr. Aoki-Kramer** said it has been asked where Senator McCain's support is coming from because he doesn't have the support of the states. He had the support of the tribes but he lost the support because they deleted that portion of the bill that would allow the tribes to go directly to the Secretary of the Interior if negotiations with a state reach an impasse. Tribes would no longer have to sue a state for bad faith negotiating--the Secretary of the Interior would complete the compact negotiations. **Doreen Maloney**, Upper Skagit Tribe, said from what she is hearing from the tribes position, Mr. Aoki-Kramer is absolutely right in looking at alternatives when negotiations become deadlocked. There is consideration now for alternatives and if there is an arbitration alternative which still may be included, they still may pick up support from some of the tribes. There is a lot of support for paying their own way if it goes to actually getting the process through. It is too bad that some of the items came out; they had a fairly decent bill in the beginning. **Director Miller** said the National Governors Association and the Association of Attorneys General oppose this bill. Removing the Governor's authority to deal with newly acquired trust land is a real difficult issue that is getting no support. The bill didn't deal with the issues that have caused the states problems. We were in negotiations with the AG's office for about a year and a half. Staff has been working closely with the delegation in D.C. From a state perspective, there is a lot of opposition to this bill because it doesn't clarify some things. The trust issue and the good faith provision has not been resolved. Staff's main concern is preserving the right to play a role under the compacts and not losing that to the federal governments.

Doreen Maloney said some of the real concern noted was regarding the relationship between most of the tribes and the state. She also wanted to see that gaming revenues and regulatory control remained in the state. **Director Miller** said he appreciated Ms. Maloney's comments and that he hopes the Commission will make a statement. **Chairman Tull** said that he was going to suggest that as an agency the Commission may well want to express those opinions. He thinks the Commission will eagerly await hearing from Director Miller. **Chairman Tull** said some similar things have been done in the past and there are several ways to approach this. One is a formal resolution, the other is a discussion followed up by a consensus as to what type of information should be conveyed in writing in a letter from one or more of the Commissioners. **Director Miller** said it has started to move and the Commission needs to stay on top of it. Staff is also working on the minimum standards with NAGRA and Carrie Tellefson is on the Indian Gaming Committee with NAGRA and working with some other states on that issue so NAGRA will be submitting some comments to the committee.

Commissioner Heavey asked about the Toricelli bill, and said they are treating lands given to newly-recognized tribes or restored tribes the same as trust land. He asked what the justification is for that way of thinking. **Mr. Aoki-Kramer** said the tribes that are petitioning Congress or the Bureau of Indian Affairs presently, so that they would have the same

opportunities as other tribes. **Commissioner Heavey** said this happened recently with the Samish Tribe; **Chairman Tull** said the Samish Tribe has not been recognized yet, but it is close. **Director Miller** said under the current IGRA any newly recognized tribe can buy land anywhere. This would make newly-acquired land consistent with the current law on newly acquired trust lands for just the tribes. It would give the Governor veto authority again. There have been some tribes on the East Coast that have just come into recognition in the past year or two. Under the current law, any land that is owned prior to 1988 can be used for gaming. Any land that is acquired after 1988 requires the Governor's approval. For new tribes that have just come into existence the act said anywhere a tribe gets land can be used without the Governor's say. The Toricelli bill makes it consistent so now the Governor has a right to veto it as well. **Chairman Tull** said if the Samish were federally recognized and they are given funds and/or land then today they would be able to conduct activities on their new land without the Governor's say.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

Chairman Tull said we have a packet of licenses, changes, withdrawals, and tribal certifications that have been circulated to the Commission for review. **Commissioner Heavey** moved for approval of the new licenses, changes, withdrawals and tribal certifications as listed in the agenda packet. **Commissioner Phelps** seconded the motion, motion carried with three aye votes.

GENERAL DISCUSSION

Director Miller said there will be a very full agenda tomorrow and he would like to discuss an issue with the Commission that has to do with management companies. The Squaxin Island Tribe has been constructing a casino for some time now and working closely with staff. They entered into a contract with a management company who is called Indian Gaming Management that is owned 89 percent by the Mashantucket Pequot Tribal Nation. This is the tribe that has the largest casino in the world. The other 11 percent is owned by G. Michael Brown. Indian Gaming Management is the company supplying the funds to Squaxin Island to build their casino. Staff has been working closely with them to complete a background investigation on the company and staff has allowed funds to be used because there has been some miscommunication which has been corrected at this time. Because of the miscommunication, coupled with an incredibly heavy back load on our part, we have not completed the final certification. The Foxwoods people have come out and met with us on numerous occasions. Staff has completed almost all of their review; they have two more backgrounds to do of non-major players. The tribe was scheduled to open next week. Under the authority Director Miller has under WAC 230-04-255, he wanted to exercise that option based on the fact that staff has reviewed the company, the risk is minimal, the tribe has also been notified that if a problem should evolve in the next week or ten days, staff would come forward at the next commission meeting and it could affect the ability to go forward or the management company could be out. He does not expect that to happen. The initial start-up funds for this operation back on the east coast came from a foreign subsidiary because the Mashantucket Pequot Tribe couldn't get funding then. The question was did staff need to go to a far-east country to tear this company apart because they had put initial financing in the initial casino. There is some debt owed to this company but this company has no direct relationship to the Squaxin Island Casino. Staff

required any money from the other company to be removed from Squaxin Island so they are not directly involved. This is unusual but he felt it would cause much greater hardship to hold the tribe up than what the risk was to the Commission. **Director Miller** said he'd like to go forward with this. **Chairman Tull** said he thought the Commission would like to have it as quickly as possible but not to schedule a special meeting. He is comfortable not taking any action at the Commission level until Director Miller brings the package forward. Hearing no question, the Commission will go forward with the agenda.

REVIEW OF FRIDAY'S AGENDA

Ms. Tellefson said there is a very busy agenda tomorrow that begins with the Lummi Nation/state of Washington tribal/state gaming compact. The Commissioners have the latest version and there is a summary of the changes and how this version is different from the version that was forwarded to the commissioners before. **Chairman Tull** clarified that the version received at the table is the version the Commissioners are to study. **Ms. Tellefson** confirmed it was. Also, up for final action are three housekeeping changes tomorrow; there are four rules that have to do with charitable nonprofit record keeping provisions and there are two rules that pertain to distributor licenses that are up for final action. There are a number of rules for discussion and possible filing. There is a petition that may be confusing and hopefully tomorrow staff will be able to clear this up. Staff has been discussing a number of rules with the commercial study group for the past few months and felt staff had reached consensus with most of them; however, right before the agenda went to the printer, staff found that with regard to some rules the parties didn't reach consensus so staff agreed to put the petition forward in addition to the rules. Some of them are the same and some of them are different. However, today in the study group, staff talked over the issues that were remaining and it is believed there will only be a couple of issues left where there are differences tomorrow. **Ms. Tellefson** said the differences would be presented tomorrow and staff may not need two different formats. There are 14 rules that are part of the study group propositions up for discussion and possible filing, and there are four rules that have to do with bingo operations and record keeping.

Ms. Tellefson said under unfinished business or other, a petition by the Spokane Athletic Roundtable for relief of the prize payout net income downgrade they received. **Commissioner Phelps** asked if staff had prepared a response to Spokane Athletic Roundtable's petition. **Ms. Tellefson** said there is a petition in the actual agenda by the Spokane Athletic Roundtable. Staff has not prepared a formal response. Under the rule, WAC 230-20-064, the Commission would handle this as a petition for a declaratory order and there are specific guidelines that the Commission must follow. Mr. McCoy will brief the Commission more on that. The Commission may choose to set it aside for a hearing on another date, issue a formal ruling within 90 days, or chose not to respond. That is set out in the 230-50 section of the Rules Manual. **Director Miller** said a report would be presented tomorrow on the history of the organization. He said this was the first time for this process with the new rule. One of the biggest issues staff has had to deal with has been net income and prize payout. The old way of handling this was through an adjudicative proceeding, hearing, settlements. Staff came up with this new system which said if there is a violation, the licensee will be downgraded to a lower level and gives the licensee a chance to work back up. Spokane Athletic Roundtable is claiming this downgrade will put them out of business. From a staff perspective, some things need to be shared with the Commissioners. This rule was worked out with licensees over many months and what is happening right now is that there have been 16 downgrades issued. The way the rule is set up,

if a license is in compliance for six months, they can go back to the higher level. There is concern with staff that there are 16 licensees that have been downgraded. Obviously, the environment is changing around Washington. This is the first time through this process.

Director Miller asked the commissioners if they would like a five-minute overview of the changes to the Lummi compact. **Chairman Tull** asked if some of the clarifications were available to the legislative committee. **Director Miller** said yes, they were briefed.

Commissioner Phelps asked if there is a summary of the Legislative hearing available;

Director Miller said the Legislature has not submitted any comments. He said there was a lot of support for this compact from that body. They felt given the pre-compact operation which was grandfathered, the wild-fire games which are now gone, the \$5,000 pai gow which is now gone, the ability for the state to regulate which wasn't there before was well worth recognition of the grandfather clause and it will bring greater stability to the region. **Commissioner Phelps** said he would prefer to wait until tomorrow. **Chairman Tull** agreed and said he'd rather read the materials and think about it.

Commissioner Heavey said he just returned from a trip to Ireland and reported that they do have slot machines in different cities but no one plays them.

Chairman Tull asked if anyone was going to the World Gaming Congress. **Director Miller** said it was in October and Commissioner Phelps will be going with him. He said he will be doing two panels and it will give Commissioner Phelps and excellent opportunity to see things too.

Chairman Tull asked about the NAGRA conference in November. **Director Miller** said seeing the technology is really worthwhile.

Mr. Bishop announced that a new business office manager has been hired and will begin September 18, 1995. He replaces Creed Clement, the former business manager who has been gone for 90 days. His name is Bob Sherwood and he is very highly qualified. He is from federal government and has been a CPA in Oregon and Washington. This position will be brought into the Executive Committee group which hasn't been done before.

Ms. Tolton said she recently went to Kansas City, to attend a conference of the gambling section of Law Enforcement Intelligence Units (LEIU); it has been a difficult process for our agency to become a member. It has proved to be a great resource for staff as far as information. She gave a presentation there but she found there is a real lack of knowledge on IGRA and what it means. They want to do this conference on an annual basis and are looking at Seattle as a possible site. She said she received some valuable intelligence information about people. She said it was two days of very intense information gathering.

Chairman Tull adjourned the meeting.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, SEPTEMBER 15, 1995

Chairman Tull called the meeting to order at 10:05 a.m. at the Best Western Lakeway Inn, Bellingham, Washington.

MEMBERS PRESENT: ROBERT M. TULL, Chairman; EDWARD HEAVEY, and S. DON PHELPS; and Ex Officio Members Senator MARGARITA PRENTICE and Representative RUTH FISHER.

OTHERS PRESENT: FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHERRI WINSLOW, Assistant Director, Field Operations; CALLY CASS-HEALY, Assistant Director, Licensing; SHARON TOLTON, Assistant Director, Special Operations; CARRIE TELLEFSON, Special Assistant, Public Affairs; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.

Chairman Tull said there is one change to the published agenda; the Spokane Athletic Roundtable's petition originally under item nine in unfinished business and dealing with licensing status will be postponed because **Commissioner Heavey** moved to continue this issue to the Friday, October 13 meeting; **Commissioner Phelps** seconded the motion, motion carried with three aye votes.

APPROVAL OF THE MINUTES FROM THE AUGUST 10 & 11, 1995, MEETINGS

Commissioner Heavey moved to accept the minutes from the August 10-11, 1995, Commission meetings in Chelan, Washington, as set forth in the agenda packet; **Commissioner Phelps** seconded the motion; motion carried with three aye votes.

STAFF REPORTS

FIELD OPERATIONS DIVISION UPDATE

Director Miller said the staff will be giving updates by division during this portion of the meeting.

Ms. Winslow gave a report on the financial and investigative training program for field agents and discussed other on-going projects. She said approximately 50 field staff, including staff from other divisions, have been through the training program. The program provides comprehensive training that brings together law enforcement staff and staff with accounting backgrounds to focus on a

single agent concept. During 1995, nine Field Operations staff have completed the basic law enforcement academy. One staff member, a grandfathered agent, is currently in the reserve academy and is scheduled to graduate in November 1995. In 1995, the Field Operations emphasis has been on training because of the single agent concept and also due to promotions into other divisions. Approximately 15 field staff have gone through the field training officer program. This training focuses on the basic functions of working as a special agent. She said that spot and operational inspections, including records, financial and investigation inspections have been taking place. She said a major pull tab fraud investigation involving a manufacturer, distributor and at least five operators, has recently been completed. Four recall actions have been completed on defective pull tab products. Approximately five pull tab reviews have been completed, five manufacturer reviews, and quarterly distributor inspections. She said there are plans to meet with manufacturers in the near future to discuss enhancing the quality control program on pull tab and bingo products and focus on a more proactive program. She said there are plans to enhance the financial investigative program to meet the future needs of new staff. The Special Agent 1 applicant testing is being enhanced to focus on aptitude.

Chairman Tull asked if there will be an executive session requested for today; **Director Miller** said no, there will not be an executive session.

CLASS III TRIBAL-STATE GAMING Compact

LUMMI NATION AND THE STATE OF WASHINGTON

Director Miller said he is pleased to present this Compact to the Commission. He said that in 1983, the Lummi Nation's blackjack operation was formally recognized by the federal government with a grandfather status. Under the federal law, blackjack is Class III and the compact is required to have blackjack. The grandfather clause had no limit on the number of tables in their blackjack operation and although the State has disagreed with the Lummi Nation over the wagering limits, the National Indian Gaming Commission recognized the \$100 limit. Director Miller said that over the years, the Gambling Commission has attempted to keep negotiations going, but there was disagreement on where the parties were going, and progress was slow. At one point, negotiations completely broke off and the Lummi Nation filed suit against the State. There has not been a relationship in the regulation of gaming.

About three months ago, the Lummi Nation contacted the State and requested negotiations. Meetings were held and everyone worked around the clock to come up with a compromise to protect the interests of both the State and the Lummi Nation. The Tribe's expertise in gaming, due to their grandfather status, was recognized in negotiations. The Compact clearly preserves their grandfather clause. Local officials offered very little comment to the process. A local caucus has been held and a legislative hearing was held last Tuesday. The results are positive, in that the Compact brings great stability to this region, from the standpoint of competitiveness and with the four gaming Nations in this area.

Director Miller used overheads to present the key points of the Lummi Compact and the differences between pre-Compact status and proposals in the Compact.

PRE-Compact:

Gaming: Under federal law, there was 1) unlimited number of blackjack tables, with \$100 wagers

and the grandfather status allows operation 24 hours a day; 2) no community contribution, and no contributions to charities or non-profits; 3) a successful pai gow operation, with wagers of \$5,000.00 per wager (The Commission has disputed this high wager amount, but this was resolved through the Compact); 4) Electronic Pull Tab Games, i.e. Wild Fire - there has been disagreement on whether this is a Class II dispenser or a prohibited gambling device. The National Indian Gaming Commission never took a position on this device. As of September 10, 1995, as a result of the Compact, the Nation removed all of these devices from their casino.

Regulation: Regulation of gaming was strictly tribal, with oversight by the Federal National Indian Gaming Commission. There was no co-regulation by the State.

Criminal Jurisdiction: Jurisdiction was strictly Tribal and federal. State law did not exist, except as it applied through federal law.

PROPOSED Compact:

Gaming: Under the terms of the Compact, the Lummi Nation's grandfather status will be recognized and capped at 42 tables (the existing level). The Compact will allow 16 grandfathered blackjack tables. The Compact provides for 50 + 2 Class III tables and a maximum wager of \$500.00. This scope is consistent with all other state compacts. There will be a total of 68 tables. Of the 42 grandfathered tables, if the Tribe wishes to increase the number from 16, then the number of Class III tables reduces accordingly. Pai Gow wagering limits have been reduced. The four hour closure period on all Class III tables is now in place, except for the \$100 grandfathered blackjack games. The electronic pull tab dispensers will not be brought in under the terms of the Compact.

Community Contribution: If the facility moves more than one mile from its current location or if alcohol is introduced, a community contribution of two percent on all Class III games will become effective.

Regulation: The State has a co-regulatory program with the Lummi Nation, with the Lummi Nation as the primary regulator.

Background checks of casino employees: Frank Miller said that a new process is introduced with this Compact that does not exist elsewhere. The Tribe will be conducting the background screening of all job applicants (tribal members, tribal member's spouses and other applicants). The State will only be conducting background investigations on non-Lummi tribal applicants. The State will audit 10% of screenings conducted by the Nation on their tribal members and tribal member's spouses. This percentage will increase only if discrepancies are found. Any disputes will be handled through the dispute resolution process. If this screening process is successful, it may be expanded to other tribes.

Criminal Jurisdiction: State gambling laws are in effect and we look forward to working with the Lummi Nation to resolve criminal issues.

In summary, Mr. Miller said the lawsuit filed by the Lummi Nation will be dropped with the Compact as the settlement of that issue. The Compact is important and will bring stability. Other tribes feel the Lummi Nation is receiving preferential treatment through this Compact, this is due to their

grandfather status.

Commissioner Heavey asked how the term "Native American" is defined by statute and does it apply only to enrolled members of an Indian Nation, in regard to jurisdiction? **Director Miller** said that is not defined by statute. **Commissioner Heavey** asked how the Commission knows if someone is a Lummi Nation member, if they are not enrolled in a Nation? He asked if there would be a problem in adding the words, "a Native American enrolled in a tribe within the boundaries of the United States" to clarify this point.

Director Miller said that "Lummi Member" is not defined in the Compact. **Chairman Tull** said he thinks the Lummi Nation has its own operative definition and policy as to who is and is not a member. **Commissioner Phelps** said there is also the issue of the jurisdiction over non-Lummi Native Americans. **Commissioner Heavey** said it should be defined, so in a criminal prosecution, it will already be decided as to whether there is jurisdiction over an individual because they are or are not a member. **Director Miller** suggested adding the word "enrolled" prior to every time "Lummi member" is mentioned; **Mr. McCoy** said the solution could be to add a definition in the beginning of the Compact to define Lummi member and non-member Indians. Director Miller agreed with Mr. McCoy's suggestion and said it would be done.

Commissioner Heavey clarified the co-regulation process, which provides that the Lummi Nation, and not the State of Washington, will be conducting the background checks on all members and member spouses, and that this is the only Compact which has this regulation.

Senator Prentice asked if the issue being raised about who are the tribal members has been addressed in other Compacts; **Director Miller** said this is the first Compact to specify "Indians" and "non-member Indians" and "Lummi Nation members." Director Miller felt that this is the appropriate time to clarify this issue.

Chairman Tull asked why the overlapping jurisdiction has been complicated in this Compact, which at the present time seems unworkable; he referred to Section V, page 5 of the handout, where there is discussion of the Nation, through its commission or police agency, shall have primary jurisdiction to arrest individuals for gambling related offenses anywhere within the bounds of tribal lands. He said the sentence "in the event that Lummi authorities unreasonably decline, then the State may effect the arrest," is not a good solution. **Director Miller** said that though there is co-regulation, the Tribe has primary jurisdiction and is expected to proceed whenever possible. Although there are some questions on the constitutionality of the federal provision that delegates this authority, the State agreed to compromise to the Lummi Nation. Director Miller noted in the event the Lummi Nation chooses not to pursue a matter, then the State can step in. **Chairman Tull** questioned as to whether an arbitration would be needed to determine whether the Tribe's decision to decline is reasonable or unreasonable? Chairman Tull reserved this issue to be discussed at a later time.

George Forman, attorney for the Lummi Nation, said it is a credit to both the Tribe and the State to reach this point. He said these tribal gaming activities are governmental gaming activities, not private, commercial, for-profit gaming activities. He said the Tribe is required, by Congress, to spend its gaming revenues in specified ways and that is something that has to be taken into consideration at every point. He said the agreement presented today is the result of lengthy negotiations and compromises that did not go down easily. The document is a carefully structured, integrated document that must be considered as a whole and must be considered in light of the capacities of the parties to that document. The Lummi Nation has more experience in the actual

operation of a house banked large scale gaming operation than any other tribe in the State of Washington. With respect to those kinds of games, the Lummi Nation probably has more regulatory experience than does the State of Washington itself. He said the Lummi Casino has operated virtually trouble free for five or so years. The Lummi Nation has repeatedly demonstrated its commitment to a strong and effective program of regulation and has worked with federal law enforcement to end problems in Washington and other states. He said the Lummi Casino does not serve alcohol on its premises and this coupled with the Casino's location makes this facility unique in terms of the lack of negative impacts on the surrounding communities.

Mr. Forman said the Lummi Nation is offering the State, through this Compact, a regulatory and jurisdiction role that it could not otherwise obtain. The issue of jurisdiction to arrest and prosecute non-member Indians is a significant issue to the Lummi Nation, because there are a fair number of non-Lummi Nation members living on its reservation. He said that the Nation is protective of its sovereign prerogatives to control activities on its reservation. Regarding Chairman Tull's question about this issue, Mr. Forman said that he believes that a criminal defendant would probably raise that issue as a defense in a prosecution. The Commission needs to be aware that they are dealing with a government that takes its governmental responsibilities very seriously and does not want to be second guessed by the State, but believes very strongly in a co-regulatory relationship. He said the language "co-regulatory" is in the Compact, because there needs to be mutual respect.

Chairman Tull said that his question is how would it work mechanically. **Mr. Forman** said that if a complaint about activities of a non-enrolled member was brought before the Lummi Indian Gaming Commission or Lummi Law and Order, it would be investigated. He said that if, after an investigation, the complaint was found unwarranted and the Nation therefore declined to make an arrest, that would be the end of it.

Chairman Tull asked if an issue was raised and there was no discussion between the co-regulators and the State becomes concerned that the issue was not being addressed, what would the State have to do at that point to pursue the matter. **Mr. Forman** felt that the State could proceed to an arrest if a serious threat was perceived. **Commissioner Phelps** asked if this would lead to an arbitration or discussion. **Mr. Forman** felt this would not require arbitration and would be up to the defendant to assert a defense that the State lacked jurisdiction and the court where the action was initiated would be making the determination whether the State had made a lawful arrest.

Mr. Forman said the Compact gives the State authority to notify Lummi Law and Order so that there is not the situation of one law enforcement jurisdiction coming into the territory of another, particularly if they come in with plain clothes and unmarked cars creating a confrontation because of a misunderstanding.

Sharon Tolton said the Commission has had a strong relationship with Lummi Law and Order on a number of issues and that relationship is expected to continue.

Director Miller said the State would make an arrest if the Lummi Nation chooses not to, but does not believe this will be an issue.

Commissioner Tull said that it sets up dual jurisdiction and that inter-play is for the convenience and preferences of the parties, not of the criminal defendant.

George Forman responded to Commissioner Heavey's question about the IGRA lawsuit. He said that all of the issues in the lawsuit have been resolved by this Compact, so that the dismissal would be with prejudice as to the issues in the Compact. This does not mean that at some point in the future, new issues won't arise between the State and the Lummi Nation. It would not foreclose the Lummi Nation from bringing new actions under IGRA. A stipulation of dismissal has not yet been filed, because the Compact has not been signed, but at that point he would have no problem with the stipulation stating that it would be dismissed with prejudice. **Commissioner Tull** felt that some documentation regarding the agreement that the lawsuit would be dismissed with prejudice should accompany the Compact when it is forwarded to the Governor. **Commissioner Heavey** said a proposed stipulation and order of dismissal was needed. **Mr. Forman** said the Compact creates a working relationship that recognized the unique status capabilities and experience of the Lummi Nation and this is all the Lummi Nation has ever requested. He hopes this will be something the Commission can agree on and move on to develop the new relationship.

Randy Kinley of the Lummi Indian Business Council (LIBC) introduced the members of the LIBC council: Vice Chairman Larry Priest, Secretary Merle Jefferson, Willie Jones, Byrd Johnson, Steve Solomon, Tim Blu, and his friend Jimmie. In addition, some members of the Lummi Gaming Agency were introduced: Ron Finkbonner, Steve Kinnely, Sam Cagey and Don Bellamey. Mr. Kinley thanked Director Miller and Carrie Tellefson for taking the time to negotiate this Compact. He also thanked Sharon Tolton for what she said about the relationship between the Tribe and the Commission.

Mr. Kinley said that there is a process that must be completed before anyone is accepted into the Tribe. The Lummi Nation is one of the most strict tribes in the State of Washington as to who is allowed as a member. It is important to recognize the relationship between Washington State Gaming and the Tribe. This is because the history of the Tribe is "co", just like the U.S. and Washington, nobody is any better, we are partners. It is a great step forward for the Tribe to come to a closure. It is an economic benefit to the Tribe and to Whatcom County. Whatcom County is one of the highest areas of commercial fishermen, and everyone knows that fishing has gone bad. This is an opportunity to employ more people and bring more revenue and economy into Whatcom County. The Lummi Nation is the third largest contributor in Whatcom County to economic development growth. The Nation is not here to cause panic with the private sector, we want to have a good relationship with everybody. Under IGRA, the State did not have jurisdiction. The Compact allows the State to come onto the reservation and this is the only way that the State could come onto the reservation. There are some strong disbelievers because of how the Tribe has been treated in the past. This doesn't mean that the State is mistrusted, but we have to have a working document that everybody agrees on. It used take a hand shake, now we have to define everything, but this is good because we do not want any gray area to affect their relationship with the State of Washington. It is also important that there is good communication on both sides.

Mr. Kinley said as a member of the Council, illegal gaming will not be allowed and will be highly scrutinized due to outside influences and economic depression. He guaranteed that the operation would be a clean and safe environment so everyone can enjoy themselves. **Chairman Tull** asked about the short-term and long-term goals and plans of the Lummi Nation, as far as its gambling operations. **Mr. Kinley** said a new community building is under construction, in which board member Richard Jefferson is the engineer. One short-term goal is the athletic complex by the new store. Another long-term goal is to provide housing and infrastructure for their people. New water

lines and education are also goals. **Chairman Tull** asked what the short-term and long-term goals for the gaming operation were, specifically. **Mr. Kinley** said they haven't really thought about that because of budget cuts. It is important to recognize that the location of the casino is temporary, because 10 years ago the operation was in the community building. Short-sighted, it had to be moved to its present location because the school was coming on line there and the kids need the area.

Mr. Kinley said that the Tribe stands solid on its principles and felt the first draft of the Compact was just a copy of some other Compact. He said he appreciates Director Miller taking the time to negotiate their Compact.

Director Miller discussed the issue of location. He said the Lummi Casino is presently located on the water at the end of Lummi View Road. This is the short-term location and will probably go into Class III at this location. The Compact states that if the Tribe chooses to relocate more than one mile away, or alcohol is brought in, the community contribution portion of the Compact will be implemented. In all of the compacts negotiated, facilities are allowed on the reservation only. Federal law allows tribes to utilize trust land held prior to 1988. If they buy new land, it requires the Governor's approval. The State has never agreed in a compact to bind any future Governor or any future Commissioner, to anything, or agree to off reservation gaming. This issue was disputed here. The Tribe has made it clear they are looking for a more accessible location and possibly a more profitable location close to the reservation. Instead of holding this Compact up on that issue, language was worked out that deals with the location issue and clearly states that should the Tribe want to renegotiate the location issue, it will be done under IGRA entirely and the Governor reserves the right and arbitration will not be a remedy for any dispute arising from this issue. Therefore, in the event that the Tribe wishes to renegotiate location, we may say lets talk about it. If the State says "no", the Tribe would have the right to file suit on that issue alone, if they choose. **Chairman Tull** said that there is no bar to commencing that discussion process. **Director Miller** said that no compact ever precluded discussion.

Chairman Tull asked if anyone would like to testify on the proposed Compact. He said that, following any comments, the Commission will vote on whether or not to forward this Compact agreement to the Governor for his approval or disapproval. There is also a federal ratification process that takes place thereafter.

Commissioner Heavey asked if approval of this Compact conditionally dismisses the lawsuit. **Mr. Forman** said the Tribe would agree that when the Compact is submitted to the Governor, it would be accompanied by a executed stipulation of dismissal with the provision that the dismissal would not be filed unless the Governor signs the Compact. **Senator Prentice** noted the Compact takes effect upon approval by the Secretary of the Interior and that it is in effect unless either side wishes to terminate it by giving 60 days notice. She asked if there will be a Phase II review like there have been with the other tribes. **Director Miller** said that upon approval of the Compact, the Tribe will begin at Phase II levels for games already in operation, i.e. blackjack, pai gow and poker. The new Class III games would be brought in at Phase I. At the end of six months, there will be a review for the remaining Class III games, or earlier, based upon their experience. **Senator Prentice** said it has been determined the regulation of the blackjack tables is at a high level. **Director Miller** said instead of closing down the existing operation to get ready to open, the Casino will continue operating. The State will work over the next year to gain compliance with the entire Compact. **Senator Prentice** said that as we watch the evolution from IGRA, she is concerned there will be

massive pressure on the tribes to raise more revenues within the next few years. She is concerned about the potential cuts this year in appropriations to the Bureau of Indian Affairs. How will the Gambling Commission deal with how one successful gaming operation impacts another operation?

Director Miller said the Compact allows for mutual adjustment at any time. There is a three year moratorium in the Compact, regarding the number of tables and wagering limits. Other issues can be worked on together to mutually agree to negotiate or change. As gaming competition grows, tribal and non-tribal operations will become more complicated.

Chairman Tull asked the Tribal Council if they have taken a public position on Initiative 651. **Mr. Kinley** answered the Tribe as a whole has not taken a position, but some individual tribal members have stated their own positions.

Chairman Tull gave a final opportunity for comments; no one came forward. The public hearing was closed and the issue went before the Commission for discussion and disposition as appropriate. **Senator Prentice** moved that the Commission recommend approval of this Compact with the understanding they will incorporate the issues Commissioner Heavey raised. **Director Miller** clarified that before the Compact went before the Governor, the term "enrolled member" and "non-member" of the Lummi nation would be defined and a stipulation and order of dismissal will go to the Governor. **Commissioner Heavey** seconded the motion and congratulated all parties involved in the Compact. He said he found this on his desk upon returning from vacation and was very pleased to see it.

Mr. McCoy said that in terms of the definitions, the tribal member definition should be defined by virtue of whatever the Lummi Tribal Ordinance is for enrollment, and non-member Indian would be based upon the federal law. **Director Miller** said he hopes the motion will be adequate because there is the good intent to include the definitions.

Chairman Tull called for a vote on the motions to forward the Compact with the recommendation that the Governor execute it on behalf of the State of Washington. The only changes contemplated involve definitions and the recognition that the stipulation will accompany the Compact. He said he shares Commissioner Heavey's and Senator Prentice's comments that this is a major accomplishment regarding the unique status the Lummi Tribe has under federal law. He said both sides are dedicated to doing the job well. He said that due to his wife's part-time employment as a member of the faculty of the tribal school at Lummi, he has maintained since 1988 when IGRA passed, that he would abstain from voting on this Compact, and his abstention is based only on that. **Vote taken**, motion carried with four aye votes; Chairman Tull abstained from voting.

RECESS

ADOPT OR AMEND RULES

Chairman Tull called the meeting back to order. Ms. Tellefson reviewed the rules for housekeeping changes; Commissioner Phelps moved to adopt these rules. Commissioner Heavey seconded the motion; motion carried with three aye votes.

HOUSEKEEPING CHANGES -- BINGO EQUIPMENT

- (a) Amendatory Section WAC 230-02-250 - Bingo equipment
- (b) Amendatory Section WAC 230-08-105 - Disposable bingo cards--Inventory control record
- (c) Amendatory Section WAC 230-20-240 - Bingo equipment to be used

CHARITABLE/NONPROFIT ORGANIZATIONS - RECORDKEEPING RULES

- (a) Amendatory Section WAC 230-08-010 - Monthly Records
- (b) Amendatory Section WAC 230-08-080 - Daily records--Bingo
- (c) Amendatory Section WAC 230-08-095 - Minimum standards for ~~((Class D and above bingo games--))~~ monthly and annual accounting records--charitable or nonprofit organizations
- (d) Amendatory Section WAC 230-12-020 - Gambling receipts deposit required by all bona fide charitable and nonprofit organization--Exemptions
- (e) New Section WAC 230-08-110 - Prize inventory control procedures--Records required--Charitable or nonprofit organizations

Ms. Tellefson said Item five includes five rules, including four amendments and one new rule, and primarily deal with recordkeeping for charitable and nonprofit organizations. There have been no objections to these rules, so far, by any of these licensees. There is also a rule that deals with capital assets, the deposit of non-gambling funds into gambling receipts accounts, and inventory control records for prizes. These are up for final action.

Chairman Tull moved to adopt the rules set out in Section 5, subsections (a) through (d). It was seconded. The motion carried with three aye votes.

MISCELLANEOUS AMENDMENTS - DISTRIBUTOR LICENSES

- (a) Amendatory Section WAC 230-02-210 - Distributor defined
- (b) Amendatory Section WAC 230-04-120 - Licensing of distributors

Ms. Tellefson said Item 6(a) & (b) are two rules that are also up for final action. One rule clarifies the definition of distributor and the other clarifies that a distributor license is required to sell gambling equipment to Class III casinos. Staff recommends adoption of this rule change.

Commissioner Phelps moved to adopt the rules set out in section six. **Commissioner Heavey** seconded the motion. Motion carried with three aye votes.

PETITION:

Ms. Tellefson explained that the petition before the Commissions is by the Washington State Licensed Beverage Association (WSLBA) and includes 14 rules. The same rules are also proposed by staff in Section 7. She said Commission staff has met with WSLBA on a number of occasions and at this point there are four rules where there are some disagreements. It has been agreed that the 14 rules will be filed, noting the four rules where there are differences, and on those four rules, two versions will be filed. The study group plans to meet prior to the next Commission meeting to try and work out the differences, if possible. **Commissioner Heavey** asked why the Commission would be filing two packets rather than filing one and making amendments to it; **Chairman Tull** suggested filing both, that way if one was preferred over the other, and not a merger, they would be in place. **Ms. Tellefson** said the differences in the two rules packages are; item 7(d), amendments to WAC 230-30-070; item 7(e), amendments to WAC 230-30-080; item 7(f), amendments to WAC 230-30-097; and item 7(g), amendments to WAC 230-30-106.

Chairman Tull asked for confirmation from the audience that these are the differences; **Robert Saucier**, representing WSLBA, reported on the background of this rule package proposal. He said in May of 1995, his group met in Spokane at their annual convention and recognized there was a need to modernize some of the rules. In light of the new competition WSLBA members are facing, it was felt that legislative and rule-making changes were needed. He said the WSLBA reviewed all the rules and met with other businesses which are impacted. After meeting with other groups and Director Miller, the WSLBA is presenting this package. He feels the industry supports this position.

There are two separate filings on these rules and he has agreed to accept the staff's proposal, with the exception of WAC 230-02-300, wherein "substantial interest" is defined. The WSLBA has decided to not endorse the staff's proposal, but to simply withdraw their petition, so they can make comments after seeing what staff's version will do. He said he hopes to meet with staff before the next commission meeting, and the differences contained within those two rules will become fewer. Then they could be debated before the Commission and let the commission decide.

Chairman Tull clarified the motion would be to file with respect to the petition of the WSLBA, the items listed at 7 (a)-(l), with duplicate filings at (d), (e), (f), (g) and (i). The second filing would be the language contained within the petition. Therefore, with the recommendation of staff, and the clarification from the petitioner, **Chairman Tull** moved; **Commissioner Heavey** seconded the motion as to 7(a) through (l) and item (n), but not for (m). He said the Legislature has decided when it is appropriate to offer beer or liquor as prizes in gambling activities, and he is not in favor of changing what he feels is an indirect legislative policy, unless there is specific legislative authorization. **Director Miller** said it is within the purview of the Commission to determine prizes for gaming. We have had a prohibition on alcohol prizes for a long time. He said that the operators felt that giving alcohol might stimulate their business. He has no objection to bringing this matter up for further discussion. He said staff has not endorsed any of the rules at this time and said staff is reserving its opinion, but for the purpose of discussion, and recommends the rules be filed. **Chairman Tull** said that for purposes of clarity, he restated his motion to be in line with Commissioner Heavey's second; to address item 7(a) through (n), except for subsection (m); **Commissioner Heavey** seconded the motion as restated; motion carried with three aye votes.

Chairman Tull asked for further clarification on staff's position on these rules; **Director Miller** said it is staff's position not to endorse the liquor prize, but has presented it for discussion, to determine the policy. He said he feels this is a Liquor Control Board (LCB) issue, not a Gambling Commission issue. **Mr. Bishop** said about 3-4 years ago, the nonprofits came forward and petitioned the legislature to allow liquor to be given as a raffle prize which was specifically approved. Currently, to award a bottle of liquor for a prize, requires a nonprofit to get a permit from the LCB that costs \$25.00. **Chairman Tull** said that if this portion of the petition is not acted on to be filed, would some type of action be necessary to show negativity toward that issue? **Director Miller** said a denial at this time will separate the issue out and that he appreciates this issue being separated out, because of all the rules in the packet, this is the most significant. **Chairman Tull** said that due to the way this packet was brought before the Commission, he would allow comments from the petitioners on this particular aspect of the rule package.

Mr. Saucier said the WSLBA's request is to have this filed so there can be further discussion. He said that even if the Commission were to approve this, they may not be allowed to offer liquor as prizes because the LCB may have some input. **Mr. McCoy** pointed out that if this is not filed, there must be a written explanation by the Commission regarding the denial. **Director Miller** asked if the minutes of the meeting would suffice for a written explanation? Mr. McCoy felt that it should be

more specific. **Commissioner Heavey** moved to deny the portion of the petition regarding offering liquor as prizes and said that, until the Legislature addresses this issue, it is not appropriate for the Gambling Commission to address the issue. **Commissioner Phelps** seconded the motion, motion carried with three aye votes.

Carrie Tellefson said that Item 8(a), (c) and (d), are up for filing. 8(b) was filed last month, but is in this group because it goes with the package and final action will be requested in November. These are record keeping rules and also some clarification of the definition of bingo occasion and session. Staff recommends filing for further discussion.

Commissioner Heavey moved to file; **Commissioner Phelps** seconded the motion, motion carried. This will be reviewed at the November meeting.

UNFINISHED BUSINESS/OTHER

Director Miller requested that the Washington Charitable and Civic Gaming Association provide the Commission with comments, issues, possible solutions on the issue of net income on the current system in the State, as soon as possible. He would like to examine this issue quickly, because some licensees are having problems complying with the rule and he wants their participation to be include in deliberation.

Chairman Tull said that the Commissioners will have a schedule of the 1996 meeting locations by the October meeting. It is the intent of the Commissioners to hold more of the meetings in Western Washington so that Commissioner Mosbarger will be able to attend, as her input is valuable.

Commissioner Phelps requested that a comparative analysis be prepared regarding gaming operations with and without Initiative 651 passing.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

COMMERCIAL OPERATIONS

Dave Storkson owns a bowling center in Anacortes which is seven miles from the Swinomish Casino. Mr. Storkson asked Director Miller if he has noticed any decline in card room revenues in the State. Mr. Storkson said he used to have a card room, but as of July 16, 1995, it is gone. He said that reservation gambling is definitely having an effect on card rooms and he can't compete. He has started the card room again, running about 5-6 days a month, instead of every day. He has 42 employees and when the card room closed, four jobs had to be cut. His pull tabs are down 20-25%. He has gone from a Class "K" to a Class "J" licensee, and feels he will be dropping to a Class "I" soon. He said he feels this is really just the beginning of what is going to happen. He said that he is the President of the Washington State Bowling Proprietors (WSBP), and this group answered a quick survey. There are approximately 70 (WSBP) members, and he has received 16 responses back so far. He listed some of the survey results: Question: The number of full-time employees devoted to your gambling operation. Answer: "83". He said that because this is based only on 16 center, he felt this could be multiplied by 5 or 6 to get an accurate number. Question: Total wages devoted to gambling in the last four quarters. Answer: "over a million dollars". Question: Number of part-time employees devoted to gambling operation. Answer: "54" (an average of 3 per bowling center); Question: Percentage of total gross business which is generated from all gambling activities. Answer: "34%". Question: Percentage of total net profit which is derived from gambling.

Answer: "57%". Question: Total State gambling taxes paid last four quarters. Answer: "\$517,000.00". Question: Total local county taxes paid the last four quarters. Answer: "\$534,000.00". Question: Is there a tribal casino operation within your marketing area. Answer: 75% said "yes" and the average is within 12 miles.

Mr. Storkson said card rooms are disappearing, which translates into tax dollars that are disappearing and going into a situation which is not taxed. He said the taxable discretionary dollars are being taken out of the community by the tribal operations. He said he is a member of the Restaurant Association and according to one of their articles, business is down 20-40% within a 40 mile radius of casinos in Minnesota. He said the private sector cannot compete against the freebies offered at the casinos. He said that yes, jobs will be created on the reservation, but jobs are being lost because of those reservations. The overall picture needs to be looked at. He said he wishes it would all go back to how it was prior to 1988, but since that can't be done, he said rules must be changed so he can compete. He said he realized this is not a Commission problem, they do a good job keeping the unwanted out. He said the industry needs help and the rule proposals he submitted should be looked at carefully.

Chairman Tull said he thinks Mr. Storkson is correct in that the Commission cannot do much to change the playing field. **Mr. Storkson** said the Commission has a relationship with legislators that he does not have and hopes that they will be informed about what is happening in his area.

Chairman Tull asked for a clarification on the tribes and offering alcohol at their facilities; **Director Miller** said the casinos receive a permit from the LCB to serve alcohol, and he is not sure whether or not all of the rules that are applicable to the non-tribal entities are applicable to the tribes. **Chairman Tull** suggested that staff contact the LCB to find out what the law is about selling alcohol at the casinos.

CHARITABLE NON-PROFIT BINGO/Spokane

Don Kaufman, Executive Director, Big Brothers/Big Sisters of Spokane County, said it is appropriate that he travelled to this meeting because of the discussion on net return on nonprofits and of I-651. He said that his organization has been in existence since 1977. In the last three years they are now surrounded by Indian operations, many of which are illegally run at this point. There is a thousand seat bingo facility in Woolly, Idaho with about 500 video pull tab machines; a 400 seat bingo facility in Chewelah, with several hundred slot machines; Fort Spokane has several hundred slot machines and Grand Coulee has several hundred slot machines. In the last two years, this organization has dropped nineteen thousand customer plays, between January and August. This equates to about \$800,000.00 in gross revenue for his nonprofit, which is about \$80,000.00 in net return, which is gone. He said that his top four priorities are: 1) payout; 2) salaries and wages; 3) gambling taxes; and 4) occupancy costs, which has an average of 3.85. The gambling tax is extremely high in Spokane, his organization paid \$291,000.00 last year to the City of Spokane. This is not a sin tax, the sin tax goes directly to the participant or the user. The City of Spokane's tax comes from the nonprofit's pocket. He found that the RCW does not define occasions, they are defined in the WAC rule. He feels that this rule should be looked at and redefined. **Mr. Kaufman** said a moratorium should be declared on licensees coming into an area. If too many licenses are allowed, everyone will lose. He would like an opinion from the Gambling Commission on having a moratorium, under an emergency situation. He said licenses could be issued, but not activated. A three year moratorium should be placed on licenses, so marketplace problems can be worked out. He distributed a copy of his scenario for a moratorium to each

Commissioner. He said would like this discussed at the next meeting, as to whether an emergency moratorium could be placed on licenses.

Chairman Tull asked if Mr. Kaufman's organization remitted \$291,000.00 in gambling taxes last year and if he knew if his city officials have taken a position on the Initiative 651. **Mr. Kaufman** said he has been meeting with the tax collectors in Spokane to devise a potential reduction in tax proposal to go to the finance committee. Unfortunately, the city of Spokane has had about three different bad tax situations arise in the last six months due to miscalculations of property values and some other issues and this doesn't look like a good year to get a tax reduction. But they have spelled out the following for the city: If one licensee leaves, even a small one, that would be \$150,000; collection of penalties has been increasing, but hiring a person to do the collection costs more than the monies collected. **Senator Prentice** asked if Mr. Kaufman knows if the city of Spokane has taken a position on the I-651. Mr. Kaufman said they oppose it, but also that the city doesn't want to see any changes in gambling taxes.

Mr. Kaufman said that he has a letters of support from the following: his Board President; the Executive Director of the Red Cross; the Executive Director of the Guild School; gambling operations manager of Spokane Valley Foundation. Foundation; and the Executive Director of the Athletic Round Table.

Director Miller asked if there will be an effort to go before the Legislature with this issue regarding expanding the limitation of bingo three occasions per week, as currently required by statute. **Chairman Tull** asked Director Miller and Mr. McCoy for a brief response on options, and said it would be presented at the Kennewick meeting next month. **Mr. Kaufman** said the request is specifically for Spokane County at this time, and Spokane County appears to support this, and that the Commissioner's decision could be limited to the emergency situation that is in Spokane County. He has heard that other Eastern Washington communities might be interested in considering it. He didn't think that the Western Washington licensees, at this time, need or want it.

Joe Wozniak, Big Brothers of King County, said he was here last night for a meeting and listened to issues of card rooms, bowling centers, other entertainment and restaurants. He asked the Commission what precludes them from issuing a statement to the Legislature and the Governor stating that the industry has changed so much from the RCW that was adopted in 1973, that the rules and regulations need to be readdressed to give a level playing field to all, particularly in the area of occupancy of buildings, occasions, taxation, etc. He said the Commission is in charge of the industry and he feels a statement on this line would be very beneficial to everyone. He said, assuming that I-651 doesn't pass, the industry still has an emergency situation and this needs to be addressed.

PROBLEM GAMBLING

Gary Hanson, Executive Director, Washington State Council on Problem Gambling (WSCPG), said he likes to check in periodically with the Commission, since they are such a strong supporter of his Council and update the Commission on his organization's progress. He said that calls to the 1-800 Helpline appear to have tripled since it began in 1993. He said he assumes this increase is due to public awareness and to the mandatory posting of signs and not to expansion of gambling. He said training has been completed in Everett. He said that some training of casino employees has taken place, two training sessions for the Muckleshoot and two for the Squaxin Island. He said that the

WSCPGE is putting together an in-depth 3-day training program for treatment professionals in coordination with the Northwest Indian Treatment Center. The plan is to have the program implemented before the end of the year and the training will be open to all treatment professional throughout the State, with a special section devoted to the special needs to tribal treatment providers.

Mr. Hanson said the WSCPGE is working to establish closer relations with the tribal casinos and the tribal councils that are involved with the casino industry. The WSCPGE has scheduled presentations with the Jamestown S'Klallam, Nooksack, Swinomish, Muckleshoot, Squaxin Island and Chehalis Tribes, and those have been well received. He said WSCPGE has appeared on television shows, at Lions Clubs, and that Channel 13 is putting together a special program on the expansion of gambling in the State, in which the WSCPGE is involved. This week, the WSCPGE conducted a presentation before the American Bar Association of the Lawyers Assistance Program, in Vancouver, B.C.

He said the State of Washington is highly represented on the National Council on Problem Gambling. He said he has three people who serve on the Board of Directors, including Sharon Tolton and himself and the President of his Board of Directors. There was a board meeting of the National Council in Washington D.C. in March, and they were able to spend time talking with national representatives from Washington and update them on the status. He said Dr. Charles Maurer has served as a Chair of a Committee at the National level which has developed a nationwide Helpline. All state affiliates will be connected to this nationwide Helpline. This Helpline, for the first year, is being funded by AT&T and Harrah's. He thanked the Commission for allowing WSCPGE's newsletter to be included with their newsletter mailing. This has been very helpful. He thanked the nonprofits and tribal casinos for contributing to the council this year, with a special thanks to the Muckleshoot, who have contributed from their nonprofit gaming table.

Rick Davis, past-president of the card room association (RGA), said he likes the idea of limiting the number of licenses. He said it used to be a favorable idea for selfish reasons, but now it is a matter of survival. This would protect existing establishments by restricting new licenses. People don't realize the costs and competition involved with a gambling operation.

Chairman Tull said he appreciates the additional comments and that it helps the new Commissioners understand the complex issues and all of the interests involved. The previously existing system involving gambling and its taxation in this State has done many good things on a whole. He said this is shifting and most understand that the reason for this shift is the result of action at the federal level. He has no idea if there is anything the legislature can do that would make as much difference as some want. All ideas brought to the Commission will be heard and when appropriate, the Commission will not hesitate to express their views to the legislature.

Chairman Tull adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green

Executive Assistant